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SUBJECT: COSTA RICA'S 7TH ANNUAL TIP REPORT SUBMISSION

Ref: 06 State 202745

1. (SBU) The following is Embassy San Jose's submission for the 2006-2007 annual trafficking in persons (TIP) report. Responses are keyed to checklist questions outlined in reftel beginning at paragraph 27. Post's POC for the report is Political Officer Robert E. Copley. Telephone number: (506) 519-2253 or fax (506) 519-2435. Total number of hours spent in preparing the TIP report: Poloff Copley 20, Political Assistant Saenz 14, Political Assistant Sanou 10, Political Counselor 1, A/DCM 1.

Overview

A. Costa Rica is a country of mainly transit, destination, and to a much lesser degree, origin for internationally trafficked men, women, and children. Specific numbers for each population are unavailable. The victims are trafficked primarily for sexual exploitation and, to a lesser extent, for labor exploitation. According to the IOM, Costa Rican victims are trafficked to El Salvador, Guatemala, Japan, and the United States. Costa Rica is a transit country for victims being trafficked to the United States and Canada. Women and girls from Nicaragua, Colombia, the Dominican Republic, Panama, and less frequently from Russia, the Philippines, Romania, and Bulgaria are trafficked to the country for sexual exploitation. Costa Rican women and children are occasionally trafficked within the country for the same purpose.

Men, women, and children are also trafficked for forced labor as domestic servants, agricultural workers, and workers in the fishing industry. Chinese nationals are trafficked to the country for debt bondage or forced labor. Indigenous Panamanian women and children were brought into the country for forced labor and begging during the period covered by this report. Reliable data on the potential scope of the problem is not available. Authorities can only provide information on existing cases, and data from NGO's is usually anecdotal in nature, and is not systematically collected at the national level. Governmental and non-governmental sources agree, however, that women and children constitute the majority of trafficking victims who pass through Costa Rica.

B. Trafficking in Costa Rica has gone deeper underground in response to successful anti-trafficking efforts by authorities. Many victims of trafficking are now being exploited in private settings (or even remotely using audiovisual systems) as opposed to public places such as hotels or nightclubs.

Since the Arias Administration took office in May, 2006, political will to fight trafficking has become increasingly evident. The following six initiatives are good examples: 1) expansion of the National

Coalition Against Human Trafficking headed by the Vice Minister of Government and comprised of key government institutions. The coalition was created during the previous administration, but the Arias Administration expanded it to include civil society organizations; 2) proposed amendments to the August 2006 immigration law that would expand the legal definition of trafficking and increase measures to protect victims of trafficking; 3) launch of a training program for other government institutions on treatment of victims by the Women's Institute (a government entity), in conjunction with IOM; 4) a protocol, drafted by the government and IOM, for repatriating trafficking victims; 5) a media campaign to alert potential victims of trafficking and to provide a victims' hotline (titled 'Call and Live?'), sponsored by IOM, IDB, UNICEF, and the Ricky Martin Foundation in conjunction with the Child Welfare Institute(PANI); and 6) the government's participating in drafting a document to promote multilateral coordination against trafficking in Central America, the U.S., Canada, Mexico, and the Dominican Republic.

IOM, which could not provide data specific to Costa Rica, estimates that up to 80% of women and girls who are illegal aliens in Central America are at risk of being trafficked. These victims are threatened with physical harm if they fail to comply with the trafficker's demands, and the traffickers may also threaten to harm the victim's families. Travel documents are routinely seized. Some victims reported being flown to Panama and then smuggled over Costa Rica's porous southern border. Others were brought to Costa Rica with false travel documents.

NGOs continue to report that some trafficking activities are timed to coincide with the harvest season. Women and children from neighboring countries sometimes voluntarily travel to Costa Rica to engage in commercial sex work with agricultural workers (banana and coffee plantations, for example), and later fall into organized networks of commercial sexual exploitation.

Methods used to approach the victims include false offers of lucrative employment. Newspaper, magazine, and internet advertisements for models or hotel staff target females and offer unusually high salaries and benefits or foreign travel. Thanks in part to an awareness campaign, immigration officials report a drop in cases of young Costa Rican women from poorer areas traveling alone and for the first time to Europe or Asia. Specific numbers are not available, but in the past these women appeared to have been well briefed on what to say to immigration officers.

Government sources of information for this report include the Chief Prosecutor's Office, Director of Immigration, Public Security Ministry, the Women's Institute (INAMU), the Children's Welfare Institution (PANI), the judicial police (OIJ), the Legislative Assembly and the Ministry of Foreign Affairs. International and local NGOs also provided valuable information.

1C. Severe resource constraints continue to limit the Government of Costa Rica's to comply with the minimum standards for the elimination of trafficking. Funding for the police remains inadequate, although the Arias Administration has hired 400 new police officers and continues to make progress towards its campaign promise of adding 4,000 over the next four years. The mission of the police unit primarily responsible for prevention of the sexual exploitation of minors was shifted to focus on stolen cars and Intellectual Property Rights.

Within the judicial police (OIJ), the three-person anti-trafficking unit was merged with the kidnapping and minor crimes unit making fourteen investigators available for trafficking cases. However, lack of funding sometimes limited the unit's ability to conduct undercover operations, pay informants, and acquire technology.

PANI lacks resources to provide specialized shelters for child trafficking victims (victims are sent to general shelters) and there is no government funding for the rehabilitation services that to date only NGOs provide.

Isolated reports of official corruption have been investigated by authorities. The Immigration Director rejected a \$2.5 million bribe and risked his physical safety to lead a successful sting operation that resulted in the arrest of eight individuals involved in trafficking Chinese nationals to Costa Rica (please see Heroes section below). Despite funding limitations, the government worked with NGOs

to promote a national awareness campaign. The Child Welfare Institute improved the awareness of municipal councils so to better protect children from trafficking in local communities.

¶D. The government did not systematically monitor its anti-trafficking efforts during the reporting period. Individual entities such as the police or prosecutors monitor their own activities but there is little coordination or sharing of these internal assessments outside the agency. Data are kept in different formats, sometimes even within the same agency. (Note: This is true for all law enforcement-related statistics in Costa Rica.) Trafficking information is shared at the national level during regular meetings of the National Coalition Against Human Trafficking.

Prevention

¶A. The government acknowledges that trafficking in persons is a serious problem in the country, especially the sexual exploitation of minors. President Oscar Arias recently reaffirmed the serious nature of the problem in public comments at the launching of the ?Call and Live? telephone hotline mentioned above. The government focuses its limited resources on combating the commercial sexual exploitation of minors.

¶B. The Ministry of Public Security and Government is most directly involved in anti-trafficking efforts through the office of the Vice-Minister of Government who leads the National Coalition Against Human Trafficking. Other government agencies involved in this task are Immigration, the Child Welfare Institute (PANI), the Women?s Institute (INAMU), judicial law enforcement agencies (the prosecutor?s office and the judicial investigative police-OIJ), and the Ministry of Foreign Affairs. The judicial police (investigators) and prosecutors are not part of the executive branch of the Costa Rican government but instead belong to the independent judicial branch.

¶C. The government continued existing educational campaigns to warn young women of the dangers of commercial sexual exploitation, and its efforts through billboards, radio and TV spots to warn tourists of the penalties for sex with minors. In addition, the government worked with, and relied heavily on, third parties to raise awareness and provide anti-trafficking training, such as the ?Call and Live? program sponsored by the Ricky Martin Foundation, IOM, IBD, and UNICEF. This campaign, launched in February 2007, was designed to alert potential victims of trafficking, protect children and youth from exploitation, and provide information to the general public through television and radio announcements and posters. IOM received some funding for this campaign from the US Department of State Bureau of Population, Refugees and Migration (PRM).

¶D. The government developed important programs to fight child labor and sexual exploitation by keeping children in school. The ?Let's Get Ahead? program is aimed at reducing the drop-out rate through school vouchers and scholarships. Also, PANI announced the reactivation of a project to provide daycare for the children of adolescent mothers funded by a tax on liquor and cigarettes.

¶E. Collaboration among government officials, NGO?s, and other relevant organizations of civil society on human trafficking issues is improving. The collaboration effort is reflected in the improved workings of the National Coalition Against Trafficking.

¶F. Immigration authorities do not systematically monitor all immigration and emigration records for indications of human trafficking. However, immigration does screen the exit permits required of all minors leaving the country for patterns of trafficking in minors. Also, police checkpoints near the borders screen for potential trafficking victims, although the officers are primarily focused on detaining illegal aliens. Porous land borders with Nicaragua and Panama are impossible to monitor effectively. Trafficking of all kinds occurs at ?informal? border crossings despite efforts by all three governments to patrol the border areas.

¶G. Coordination and communication at the national level between various government agencies, NGO?s, and other relevant organizations are primarily channeled through the national coalition mentioned above. Internationally, the Ministry of Public Security cooperates with immigration officials from other countries, INTERPOL, and the FBI to identify and detain suspected traffickers. The government also

participates in the Commission of Central American Migration Directors (OCAM), which includes trafficking as part of its general work plan. Officials from immigration, the judicial investigative police (OIJ) and the chief prosecutor's office received U.S. training on forming task forces and routinely work together on successful investigations. An excellent recent example is the inter-agency cooperation that resulted in the disruption of the Chinese alien smuggling ring.

¶H. The National Coalition Against Human Trafficking, established in November 2005, is still developing a national plan of action. All the coalition's members, including NGOs and representatives of civil society, are involved in developing the plan. Among the objectives of the plan are: 1) continuous training and awareness of government officials on human rights and proper treatment of victims; 2) introduction of electronic passport security measures; 3) continued implementation of a regional mapping project (run by NGOs); 4) continued demand reduction campaigns via raised awareness among travelers at ports of entry; and 5) reforms to domestic laws in order to more fully comply with international instruments ratified by Costa Rica.

Investigation and Prosecution of Traffickers

¶A. Costa Rica has not enacted any new legislation against human trafficking since the last TIP report. However, the new Arias Administration has already proposed reforms to the immigration law which took effect in August 2006. These reforms would make alien smuggling a crime for the first time. The proposed reforms would also expand the legal definition of trafficking and improve protections for victims.

Costa Rican law does not address internal trafficking in persons. However, international trafficking is proscribed in Title III and Title XVII of the Criminal Code. Article 172 of Title III (enacted under Law 7899 on 3 August 1999) forbids human trafficking and defines it as: "whoever promotes, facilitates or favors the entrance into or the exit from the country of any persons regardless of gender, for the purpose of engaging in prostitution, or to hold them in sexual or labor servitude, shall be punished with the penalty of imprisonment from three-to-six years." The penalty is increased to four-to-ten years, if this occurs under any aggravating circumstances (defined in Article 170 as the victim being under age eighteen, the use of deception, violence, abuse of authority, exploitation of the victim's economic situation, intimidation or coercion, abuse of a parental, sibling, stepparent, spousal, guardian or other custodial relationship, or abusing the trust of the victim or the victim's family, regardless of kinship). Under Article 170, the victim's willingness to engage in prostitution is considered irrelevant to the offense.

Title XVII deals with human rights crimes of an international nature. Article 374 states "The penalty of imprisonment from ten-to-fifteen years shall be imposed on those who lead or are members of international organizations devoted to trafficking in slaves, women or children, drugs and narcotics, acts of extorting kidnapping or terrorism or infringement on provisions to protect human rights established in treaties signed by Costa Rica."

Article 376 refers to trafficking in minors, with imprisonment of two-to-four years for individuals who sell, promote, or facilitate the sale of a minor (for domestic service, commercial sex work, or adoption) and receive any type of payment, gratuity, or economic reward for their action. The same sanction is applied to the individual who pay, reward, or otherwise remunerate with the purpose of receiving a minor. If the perpetrator has a blood relationship with the minor, or is the minor's guardian or custodian, or "represents" the minor, the sanction is increased to four-to-six years. The four-to-six year sentence is also imposed if the perpetrator is a professional or public employee. The sanction against professional or public employees also includes a two-to-six year suspension from working in the profession or office held when the crime was committed.

Article 377 imposes a five-to-ten year prison term on individuals who promote or facilitate the trafficking of children for adoption with the purpose of selling the child's organs.

¶B. As mentioned above, Article 172 is the primary law against trafficking of persons for sexual exploitation (three to six years

imprisonment). Other articles in the criminal code relating to trafficking in persons for sexual exploitation are as follows: Article 167, corruption of minors or a legally incapacitated person, imprisonment for up to eight years; Article 168, aggravated corruption, imprisonment from four-to-ten years, if the victim is under age twelve, the act is committed for economic gain, the act is committed through deception, violence, abuse of authority, intimidation or coercion, or abuse of a familial or guardian relationship.

¶C. Article 172 of the criminal code imposes identical penalties regardless of whether victims are trafficked for sexual or labor exploitation. In addition and specific to labor, Article 237 of the criminal code imposes a penalty of up to four years for labor exploitation of minors or the legally incapacitated. Furthermore, the Costa Rican Constitution and Labor Code prohibit forced labor and require a minimum wage (Articles 33 and 56 of the Constitution, implemented by Articles 8 and 14 of the Labor Code for forced labor and Article 57 of the Constitution, implemented by Article 177 of the Labor Code for minimum wages). Additionally, Costa Rica assumed obligations against forced labor when it ratified ILO Convention 29 in 1960.

The Costa Rican Criminal Code (Article 359-Forgery and False Documents and Article 360-General Fraud) can be used to imprison labor recruiters, employers, or other labor agents who knowingly engage in fraudulent or deceptive practices for up to six years (eight if the perpetrator is a public employee). Article 193 of the criminal code can add two years to these sentences if coercion is used.

¶D. Penalties for rape and sexual assault are higher than penalties for trafficking. The maximum penalty for trafficking for the purpose of commercial sexual exploitation established in Article 172 is imprisonment for up to ten years; the penalty for rape is imprisonment for up to sixteen years (Article 156 of the criminal code), or eighteen years maximum for aggravated rape (Articles 157 and 158). Article 161 imposes a penalty of up to eight years for the sexual abuse of minors or the legally incapacitated, or up to ten years when the victim is under age twelve, incapable of resisting, or the perpetrator is a relative or guardian. Actual penalties for rape range from ten-to-eighteen years depending on the relation of the rapist to the victim and the degree of harm done to the health of the victim.

¶E. Prostitution by individuals over age eighteen is legal in Costa Rica; however, pimping is penalized by Article 169 of the criminal code with two-to-five years imprisonment. Brothel owners and operators are subject to the same sanctions as pimps. Article 170 of the same code defines aggravated pimping and establishes a punishment of ten years imprisonment. As mentioned above, Article 170 also establishes that the will of the victim (i.e., the victim's willing engagement in prostitution) is irrelevant to the offense of rape or aggravated pimping. If the prostitute is a minor, the client is in violation of Article 160 which states: "whoever pays, or promises to pay, or offers economic or other gain to a minor for the performance of sexual acts shall be punished with a penalty of four-to-ten years imprisonment if the victim has not attained the age of twelve years, with a penalty of three-to-eight years imprisonment if the victim has attained the age of twelve years but has not attained the age of fifteen years, or with a penalty of two-to-six years imprisonment if the victim has attained the age of fifteen years, but has not attained the age of eighteen years."

¶F. Official statistics on the number of investigations, prosecutions, and convictions on charges related to the various laws against trafficking in 2006 are compiled once a year by the Supreme Court and should be published in June-August, 2007. Until the statistics are collected and published by the Court, the only other way to collect complete official information is to physically visit individual courts to review their records-a process that is too labor intensive even for NGOs working this issue. The independent Attorney General's Office is extremely reluctant to provide statistics that are incomplete and will not discuss current cases at all with anyone who is not a party to a case. Judicial authorities reported that ten trafficking cases went to trial in 2005, and that six convictions were handed down.

Due to the complexity of the Costa Rican judicial system, we cannot establish how many of the six convictions were related to cases opened in 2005. We know from our contacts in the judiciary that at least one of the 2005 convictions was related to a trafficking case opened in ¶2003. Multi-year pre-trial discovery periods are common in Costa Rica, especially if a case has international dimensions. The judicial police

have opened five investigations into international trafficking organizations since the August 2006 immigration law providing new legal tools went into effect. Individual prosecutor's offices opened other investigations on their own, but as explained above, we cannot obtain the statistics until they are formally published.

Judicial investigators continued complex investigations of three major trafficking organizations that were launched in 2005. Informally, these investigators have indicated to Post that their evidence in these investigations is nearly solid enough to completely dismantle rather than merely disrupt the organization's operations. In January 2007, authorities arrested eight people in connection with a Chinese ring that trafficked people to Costa Rica for labor exploitation. This was the result of the sting operation involving the Immigration Director, mentioned above and described in more detail below.

¶G. According to judicial police investigators, international groups are behind the large trafficking operations they are investigating. The heads of these groups are foreigners who are usually not located in Costa Rica. Chinese, Americans, Colombians, Cubans, and Dominicans have been identified as heads of distinct trafficking organizations. Except for the Chinese trafficking case that broke in late 2006, Post has no information on where profits from trafficking are being channeled. In the Chinese case, at least some of the profits were being channeled into bribes to expand the operation. The Chinese traffickers offered a \$2.5 million bribe to Costa Rica's Immigration Director in exchange for his assistance with 500 visas. When the ringleader was arrested, authorities seized \$140,000 in cash from her home. The successful prosecutions Post is aware of to date in Costa Rica tend to involve small regional groups where the traffickers often work freelance and usually involve alien smuggling as well as trafficking. The Chinese trafficking case breaks the mold but has not yet gone to trial.

¶H. The government actively investigates cases of trafficking to the extent resources permit. Undercover operations, electronic surveillance, and mitigated punishment or immunity for cooperation suspects are all legally available to Costa Rican authorities. During 2006, Post donated hidden cameras and other investigative equipment to enhance anti-trafficking capabilities. Thanks to the courage and honesty of Immigration Director Mario Zamora, undercover investigators were able to conduct a very successful investigation and disruption of the Chinese trafficking organization.

¶I. The government provided specialized training, particularly to immigration officials, on how to recognize trafficking. Training was also provided on trafficking-related issues such as human rights, migration procedures, awareness of children's rights and victim protection. Several NGOs work closely with the Police Academy and Judicial School to provide sensitivity training for officials on special handling techniques for trafficking victims they may encounter. Investigative and prosecutorial training is not specialized for trafficking.

¶J. Costa Rican authorities cooperated with U.S. counterparts in trafficking investigations during the reporting period. Post has no numbers on the cooperative international investigations with other governments specific to trafficking, but notes that the Costa Rican government has worked closely with neighboring governments and with Colombia on narcotics and extradition cases. Post is also aware of close Costa Rican/Peruvian cooperation in two large alien smuggling cases during the reporting period.

¶K. The government willingly extradites persons accused of trafficking in other countries, especially those accused of sexual crimes (as established in Article 6 of the Extradition Law). Costa Rica also cooperates actively in returning U.S. fugitives to face justice. No American traffickers were extradited to the U.S. since the last TIP report (although individual pedophiles were extradited, see below). Five Americans are currently serving jail sentences in Costa Rica for sexual abuse involving minors. The Costa Rican Constitution and Article 3 of the Extradition Law prohibit extradition of Costa Rican nationals to any jurisdiction. There is no effort to modify this restriction.

¶L. Post has no evidence of government involvement in or tolerance of trafficking, on a local or institutional level.

1M. During the reporting period, no government officials were prosecuted for involvement in trafficking or trafficking-related corruption. However, one immigration official is under preventative detention for irregularities in stamping passports at the Penas Blancas border checkpoint with Nicaragua. Further information is unavailable as the investigation is ongoing and the case does not appear to be related to trafficking in persons.

1N. Costa Rican authorities have publicly identified child sex tourism as a problem. However, Post does not have information on how many non-U.S. foreign pedophiles have been deported to their country of origin. During the reporting period, ten Americans were extradited and two others are awaiting extradition. Costa Rican officials identified the countries of origin for sex tourism as the U.S., Canada, and Germany. Costa Rica's sexual abuse laws do not have extraterritorial coverage.

1O. Costa Rica ratified the ILO Convention 182 on August 31, 2001 (Law 8122). ILO Convention 29 was ratified on May 26, 1960 (Law 2561). ILO Convention 105 was ratified on April 17, 1959 (Law 2630). The Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution, and Child Pornography was ratified April 9, 2002 (Law 8172). The Protocol to Prevent, Suppress and Punish Trafficking in Persons was ratified on November 4, 2002 (Law 8315).

Protection and Assistance to Victims

1A. The Costa Rican Government's efforts to protect trafficking victims remained limited during the reporting period, due to the lack of resources. However, the Chief Prosecutor's Office has a section that can assist trafficking victims if they wish to press charges. There are no specialized shelters for trafficking victims. By law, underage trafficking victims cannot be deported. The Children's Welfare Institute does have general shelters in which it can temporarily place trafficking victims who are minors, but lacks the budget and personnel to create a specialized center to attend to the needs of young victims.

The police formally coordinate with the Chief Prosecutor's office on sex crimes in order to assist trafficking victims with hospitalization (when needed) and to provide legal representation. The police can provide limited protection to key witnesses in trafficking cases, but the government lacks a formal witness protection program. Identified trafficking victims did not face jail, but officials treated some adult victims as illegal migrants and deported them. Foreign nationals identified as trafficking victims could seek repatriation; alternatively, they could apply for work permits or refugee status. Most protective services were severely lacking.

The government operated no shelters or health care facilities designated for trafficking victims. In mid 2006, a migrants' shelter was inaugurated in a San Jose suburb for people waiting to be deported.

Officials used no standard referral process to transfer trafficking victims to NGOs and the government lacked the capacity to fund NGOs that assisted trafficking victims. The government collaborated with a project for victims of trafficking for sexual exploitation which is run by two NGOs. The project (see paragraph I below) is located in the Pacific coast town of Jaco, a known center of sexual tourism.

1B. The government is unable to provide funding or other support to NGOs for services to trafficking victims beyond the standard emergency services available to anyone.

1C. Immigration officials use a manual developed by the IOM and in use throughout Central America to identify and properly respond to victims of trafficking, particularly if the victim is a minor. The government lacks a formal screening or referral process to transfer detained victims to NGOs or other organizations that could provide short- or long-term care. However, on an informal level many officials have good contacts with NGOs.

1D. The rights of trafficking victims are respected in general. They are treated as victims, not criminals. Several NGOs work with victims to help them overcome fears of cooperating with authorities, and to that end prosecutors will take the victim's statements at the NGO's offices. To the extent that adult trafficking victims can be confused with illegal aliens, however, they can sometimes be summarily deported. In no case are they prosecuted or fined.

¶E. The government encourages victims to assist in the investigation and prosecution of trafficking cases. Victims can file civil suits against their traffickers. Victims may remain in Costa Rica, but are also allowed to leave. If they wish to remain, they may apply for work permits. Some nationalities, such as Colombians and Cubans, can easily receive refugee status.

¶F. As noted in paragraph A above, the government is only able to provide standard emergency medical services and limited police protection to key trafficking witnesses. It is unable to provide shelters, services, or housing benefits to adult victims but can provide legal assistance and work permits. Informally, officials help victims to contact NGO's who can offer more assistance. Child victims are placed in general children's shelters, not in foster care or juvenile detention centers.

¶G. A training manual was produced and distributed to all Costa Rican diplomatic missions to provide information on combating trafficking in minors. According to the MFA, individual Costa Ricans in some source countries have worked closely with NGOs in those countries to counter document fraud associated with trafficking in persons. In response to the August 2006 alien smuggling law, the ILO and Costa Rican Immigration expanded a training program for border officials includes instruction on how to help prevent trafficking. The training stresses differences between alien smuggling and trafficking; the responsibility of immigration officials to prevent, detect, and report cases of smuggling and trafficking, and the official's obligations to protect victims of trafficking.

¶H. Post is not aware of any government support for repatriated Costa Ricans who are victims of trafficking.

¶I. International organizations working with trafficking victims in Costa Rica include the IOM and the ILO. International NGOs working with trafficking victims include World Vision, Defense of Children International, t